IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No.17856 of 2006
WITH
SPECIAL CIVIL APPLICATION No.17857 of 2006

For Approval and Signature:
HONOURABLE MR.JUSTICE D.A.MEHTA

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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PARENTS ASSO. FOR THE MEDICAL/DENTAL STUDENTS & 1- Petitioner(s)
Versus
JUSTICE RJ SHAH (RETD) FEE COMMITTEE (MEDICAL)&5-Respondent(s)

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Appearance :
MR AJ YAGNIK for Petitioner(s) : 1-2.
MR BHASKAR P TANNA, SR. ADVOCATE, WITH MS. MAHROOK N. KERRAVALA, for TANNA ASSOCIATES for Respondent(s) : 1
MR DC DAVE for Respondent(s) : 2-3
MS SANDHYA D NATANI, AGP, for Respondent(s) : 4,
DELETED for Respondent(s) : 5,
MR NIRUPAM D. NANAVATI, SR. ADVOCATE, with MR MITUL K SHELAT for Respondent(s) : 6,

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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA
Date : 07/12/2006
COMMON ORAL JUDGMENT

(1) These petitions have been filed by the petitioners, whose children are studying in medical colleges run by respondent No.3-Trust. The fee structure has been

fixed by respondent No.1-Committee at a figure of Rs.2,20,000/- per annum. On 20.09.2006 when the Court admitted the petitions, after hearing the parties, by way of interim relief directed as under:

> "13. Considering all aspects of the matter, including the increase granted by the Committee in favour of respondent nos. 2 and 3, the nature of dispute about the question of subsidizing medical facility at the hospital and other relevant aspects, I find that it would be appropriate that the petitioners be asked to pay fee of Rs.1,80,000/- p.a. as an interim measure.
> 14. It is accordingly directed that respondent nos. 2 and 3 shall by way of interim formula charge fees from the medical students at the rate of 1,80,000/- p.a. Proportionate fees for the first term shall be paid by the students accordingly.
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> 14.1. If such amount is deposited with the college within a period of one week from today, the same shall be accepted. Last date for paying of the fees shall stand extended. No late fee charges will be charged. The college shall on its notice board accept this extended time limit for payment of fees.
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> 14.2. The petitioners shall file an undertaking before this Court that they will abide by the ultimate decision of these petitions and will pay additional fees if so directed. Additionally, it will be also open for respondent nos. 2 and 3 to take an undertaking from the individual students to this effect.
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> 14.3 Prima facie I am however, unable to accept the contention of learned advocate for the petitioners that the revised fee should be made applicable only to new students and students who are already studying should be spared such revision. Accepting for such a

> contention would put additional burden on fresh students. All students, therefore, will bare equal burden of revised fee."

(2) On going through the impugned order made by the respondent No.1-Committee, it appears that the fees have been fixed for 2006-2007 with respondent No.2-College/respondent No.3-Trust required to seek revision for 2007-2008 and 2008-2009 every year on the basis stated therein. Today, by a separate judgment and order made in Special Civil Application No.13887 of 2006 in the case of *Shree Swami Narayan Manav Sewa Trust Vs. Justice R. J. Shah Fee & Admission Committee*, this Court has held that such a truncated exercise is not permissible and respondent No.1-Committee has been directed to pass a fresh order after hearing the concerned institute as well as the students of the institute.

(3) However, in so far as the present petitions are concerned, there is one additional aspect viz. whether hospital charges/costs can be recovered from the students. In this connection, the Court has recorded thus while passing the interim order :

> "11. Prima-facie I find that some of the expenditure of running of hospital which the Committee has accepted, require a closer scrutiny. It cannot be denied that providing a hospital facility for imparting medical education is compulsory. Respondent nos. 2 and 3 also run a hospital in which medical students as part of their curriculum undertake training. To what extent expenditure incurred for such a facility can be charged from the students is a question that has to be gone into at the time of final disposal of the petition. However, it has come on record that the hospital run by the said respondents does not fully recover the medical expenditure from the patients and large number of patients receive treatment at a subsidized rate.
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> 12. All these aspects of the matter shall have to be considered at length while deciding the issues finally. However, at this interim stage, I find that some rough and ready formula is required to be provided so that entire burden does not fall on students."

(4) It is an admitted fact that the committee consists of a representative of the Medical Council of India as well as a qualified doctor for the purposes of fixing the fees of medical colleges. In the circumstances, it would not be proper on the part of this Court to record any final opinion at this stage considering that respondent No.1-Committee is even otherwise required to pass a fresh reasoned order in light of what has been stated in the aforesaid decision in the case of *Shree Swami Narayan Manav Sewa Trust Vs. Justice R. J. Shah Fee*

& Admission Committee in Special Civil Application No.13887 of 2006.

(5) In the circumstances, the directions made in Paragraph Nos.21 and 22 of the said judgment shall *mutatis mutandis* be applicable herein also.

(6) In the present case, the parties addressed the Court on the issue as to whether the interim relief granted should be permitted to continue or not in light of the fact that respondent No.1-Committee is now required to pass a fresh order. On behalf of the petitioners it was emphatically stated that the students have already given an undertaking as directed by the Court and hence, interim order should not be disturbed and should be permitted to operate till the point of time respondent No.1-Committee passes a fresh order. As against that Mr.D.C.Dave, learned advocate appearing on behalf of respondent Nos.2 and 3, has submitted that no other medical or dental colleges have been restricted from collecting fees in entirety fixed by respondent No.1-Committee and once the matter is being finally disposed of, the respondent-Institute also

must be permitted to collect the fees in entirety, subject to any condition that the Court may deem fit to impose. On behalf of the Committee it was submitted that the Committee would abide by whatever decision the Court takes on this issue.

(7) As can be seen from the interim order made by the Court, the interim relief was granted till the point of time the question of subsidizing the medical facility at the hospital is resolved and the students were directed to give undertaking that they shall pay the entire amount of Rs.2,20,000/- per year, if it is ultimately decided and directed by the High Court while finally disposing of the petition.

(8) In the aforesaid circumstances, it would be fair and just if the students are called upon to make the payment of the balance amount only qua the fees relatable to first term till the point of time respondent No.1-Committee passes a fresh order. It will be permissible for the students to make such payment in two equal monthly installments, commencing from the 10th of this month. Respondent No.2-College shall

deposit the said amount in a separate account for which a fixed deposit receipt shall be obtained and the said amount shall not be utilized in any manner whatsoever, including as a collateral for any loan purposes. This arrangement shall continue till respondent No.1-Committee takes a fresh decision as directed hereinabove.

(9) Subject to the aforesaid directions, the petitions stand allowed to the aforesaid extent. RULE made absolute. There shall be no order as to costs.

(10) Registry to place a copy of this order in connected matters.

Sd/-
[D.A. MEHTA, J]

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Bhavesh*